#6 Election 4/9/03

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Washington, D.C. 20231

On March 19, 2003

TOWNSEND and TOWNSEND and CREW LLP

By: Stephanie J. Whitehurst

PATENT
Attorney Docket No.: 20695C-001900US
Client Ref. No.: V-261.00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Examiner: Stacy S. Brown
Meyer	Art Unit: 1648
Application No.: 10/006,882	RESPONSE TO RESTRICTION
Filed: December 10, 2001	
For: METHOD OF LARGE SCALE PRODUCTION OF HEPATITIS A VIRUS	

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action mailed February 19, 2003, Applicants elect with traverse to prosecute the claims of Group I directed to a method for continous production of hepatitis A virus and a cell culture. In particular, Applicants respectfully request that Groups I and II be examined together.

The Examiner has placed Groups I and II in the same subclass. Thus, the restriction between these groups is improper. The MPEP states that where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. *See*, MPEP § 803. In establishing that an "undue burden" would exist for co-examination of claims, the Examiner must show that examination of the claims would involve substantially different prior art searches, making the co-examination burdensome. In order to show

undue burden resulting from searching difficulties, the Examiner must show that the restricted groups have separate classification, acquired a separate status in the art, or that searching would require different fields of search. According to the MPEP, where the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions. *See*, MPEP § 808.02 (C).

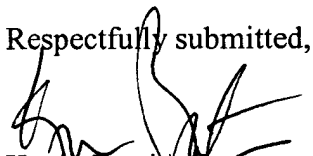
Applicants respectfully submit that the inventions can readily be searched together without an undue burden, particularly since both groups are drawn to methods of producing hepatitis A virus particles. In the Office Action, the Examiner provides no rationale for separating the claims of Group I from those of Group II. In the absence of a showing as to why examination of the two groups meets the criteria set for the above, the restriction is improper and should be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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